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SHUMAKER & SIEFFERT, P.A.
1625 RADIO DRIVE, SUITE 300
WOODBURY MN 55125

In re Application of: PEIFFER, Christopher
Application No. **09/975,286**
Filed: October 10, 2001
Atty. Docket No. 1014-152US01
Title: String Matching Method and Device

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed April 24, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the holding of non-compliance for the "Summary of Claimed Subject Matter" in the Applicant's Appeal Brief filed January 07, 2008 as defective. The petition also request the entry of Appeal Brief filed December 10, 2007 and corrected Summary of Claimed Subject Matter filed January 07, 2008.

Accordingly, this petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

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| 11/20/07 | Applicant files Appeal Brief. |
| 12/07/07 | First Notification of non-compliance Appeal Brief is mailed in response to Appeal Brief filed 11/20/07. |
| 01/07/08 | Appellant's Response to Notification of non-compliance Appeal Brief is mailed in response to Appeal Brief filed 12/07/07. |
| 04/28/08 | Second Notification of non-compliance Appeal Brief is mailed in response to Appeal Brief filed January 07, 2008. |
| 04/24/08 | Petition for review by the Technology Center SPRE under 37 CFR §1.181 filed on April 24, 2008. |
| 09/05/08 | Applicant files Appeal Brief responsive to Final office action mailed February 22, 2007. Also including a Response to notice of non-compliant Appeal Brief mailed 01/17/08, thereby requesting the withdrawal of holding of non-compliance for Summary of Claimed Subject Matter filed 1/07/08 and entry of Applicant's Appeal Brief filed 12/10/07. |

REGULATION & PROCEDURES

2274 Appeal Brief: V. REQUIREMENTS FOR THE APPEAL BRIEF

A fee as set forth in 37 CFR 41.20(b)(2) is required when the appeal brief is filed for the first time in a particular reexamination proceeding, 35 U.S.C. 41(a). 37 CFR 41.37 provides that the appellant shall file a brief of the authorities and arguments on which he or she will rely to maintain his or her appeal, *including a summary of claimed subject matter which must refer to the specification by page and line number, and to the drawing, if any, by reference characters, and a copy of the claims involved*. Only one copy of the appeal brief is required. Where the request for reexamination was filed by a third party requester, a copy of the brief must be served on that third party requester.

1205.02 Appeal Brief Content

(v) Summary of claimed subject matter. *A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. While reference to page and line number of the specification requires somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of 37 CFR 41.37(c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.* If appellant does not provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), the Office will notify appellant of the defect in the brief and give appellant a time period within which to file an amended brief. See 37 CFR 41.37(d).

1205.03 Non-Compliant Appeal Brief and Amended Brief

In response to the Notice of Non-Compliant Appeal Brief (37 CFR 41.37) or the Office communication that requires an amended brief, appellant is required to file an amended brief that is either a complete new brief with the required corrections or a replacement section(s) as noted below:

(B) When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief *need not*, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

DECISION

The Appeal Brief filed 1/07/08 in response to **first** notice of non-compliance mailed

12/07/07 was reviewed with respect to the requirements under 37 CFR 41.37 which require that Appellant brief include a summary of claimed subject matter which must refer to the specification by page and line number, to the drawing, if any, by reference characters, and found to be in compliance with the requirements.

Regarding the **second** Notification of non-compliance Appeal Brief is mailed in response to Appeal Brief filed January 07, 2008. Appellant submitted a corrected Summary of the Claimed Subject Matter, as required by 37 CFR 41.37(c)(1)(v).

The summary of the claimed subject matter contained concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters, as required.

For the above stated reasons, the petition filed April 23, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the second Notice of Non-Compliant Amendment under 37 CFR 1.121 mailed on 04/28/08 in response to Summary of Claimed Subject Matter is **Granted**.

The Second Notification of non-compliance Appeal Brief mailed 4/28/08 in response to Appeal Brief filed January 07, 2008 is hereby **withdrawn**.

The application has been forwarded to examiner of record to consider the Summary of the Claimed Subject Matter, filed on 01/07/08 and issue an appropriate action expeditiously.

Any inquiry regarding this decision should be directed to the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/bp/

/Beatriz Prieto/

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/975,286 | 10/10/2001 | Christopher Peiffer | 1014-152US01 | 9849 |

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| EXAMINER | |
| PATEL, HARESH N | |

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| ART UNIT | PAPER NUMBER |
| 2454 | |

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| NOTIFICATION DATE | DELIVERY MODE |
| 05/07/2009 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pairedocketing@ssiplaw.com